Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Advanced Television Systems	)	MM Docket No. 87-268
and Their Impact upon the	)	
Existing Television Broadcast	)	
Service	)	

To: The Commission

REPLY COMMENTS OF MARANATHA BROADCASTING COMPANY, INC.

Maranatha Broadcasting Company, Inc. ("MBC"), licensee of independent television broadcast station WFMZ-TV, Channel 69, Allentown, Pennsylvania, through counsel, hereby submits these brief reply comments concerning the FCC's Sixth Further Notice of Proposed Rule Making in this proceeding (FCC96-207, released August 14, 1996) and the comments filed November 22, 1996, on behalf of the Association for Maximum Service Television, Inc. ("MSTV"), and other organizations purporting to represent some 660 licensees ("Broadcasters' Comments").[1]

1. In its own Comments, MBC advocated three specific objectives: (1) an assured minimum power level for new digital television ("DTV") allotments and post-transition DTV allotments in a "repacked" spectrum; (2) realistic replication of existing NTSC service areas; and (3) incorporation of pending modification applications (as of the date of the Sixth Further Notice) in the

[1] Although the signatories to the Broadcasters' Comments, without question, represent a large number of licensees, the FCC should not reflexively assume that the Broadcasters' Comments, and particularly the proposed Table of DTV Allotments, represents, by acclamation, the views of every party so represented. In fact, many licensees, while supporting the major premises of the Broadcasters' Comments, have objected to or taken reservations concerning their proposed specific allotments.

new Table of DTV Allotments. The Broadcasters' Comments also advocate "replication" of NTSC service but there are significant reasons to doubt that their proposed table of paired NTSC and DTV allotments would accurately replicate existing NTSC service; of at least equal importance, their proposed table would inevitably create gross competitive disparities between stations which now operate in the VHF band and those which now and in the future would operate in the UHF band.

2. Specifically, the Broadcasters' Comments propose a DTV allotment for WFMZ-TV with only 16 kW effective radiated power. The prevailing understanding is that, in a digital transmission system, a station requires approximately 1/16th of its NTSC power to achieve equivalent coverage. The allotment proposed for WFMZ-TV, however, is only *1/66*th of its authorized NTSC ERP. It is manifestly insufficient to replicate WFMZ-TV's existing coverage. To replicate its existing coverage, WFMZ-TV requires a DTV ERP of at least 67.4 kW. The Broadcasters Comments proposed table, therefore, reflects either a misapprehension concerning WFMZ-TV's currently authorized facilities or assumptions regarding interference and/or terrain or other factors that are simply erroneous or so opaque as to preclude the possibility of meaningful comment.

3. At the same time, to -- ostensibly -- replicate the coverage of existing VHF stations, the Broadcasters' Comments proposed table includes UHF band DTV allotments for current VHF licensees with ERPs in the *millions* of watts. These proposed "mega-allotments," in the same markets with minimalistic proposed allotments for existing UHF licensees, threaten to completely erase the progress the FCC has made over the years to create a rough competitive comparability between VHF and UHF stations. In both the FCC's proposed table and the Broadcasters' Comments proposed table, the vast majority of DTV allotments will be in the UHF band -- and the transmission and reception characteristics of those stations will be, therefore, generally comparable. But the

Broadcasters' Comments proposal would require stations such as WFMZ-TV to compete against other stations in the same market, in the same band, with a *thousand-fold* advantage in operating power. The NTSC allotment system attempts to create a sort of rough comparability between VHF and UHF stations by permitting UHF licensees a maximum power of up to 5,000 kW. The Broadcasters' Comments proposal incorporates no minimum power level, and no maximum power, and -- rather than striving for some degree of comparability between stations -- aggravates existing competitive imbalances that have accrued because of operation of stations in different bands.

4. MBC pointed out in its Comments, ¶ 9, that in the post-transition, "repacked" spectrum environment, not all channel assignments will have equivalent potential for maximization of facilities. This much is also acknowledged in the Broadcasters' Comments (*see, generally*, pp. 39-40). Thus, stations with (relatively) lower power DTV allotments will not only be severely disadvantaged competitively during the long transition period but will have absolutely no assurance that they will be able to bridge the gap once the transition is complete and NTSC operations are terminated.

5. On the surface, the creation of a class of "super-power" stations, as one consequence of attempting to replicate existing service, may appear to have some justification. It is impossible to argue with the general premise that viewers should not be denied access to DTV service from a licensee on whose NTSC service they have come to rely. The application of this premise, however, must be tempered by several additional concerns. First, insofar as possible, it should apply equally to all viewers of all stations. However, as shown by the treatment of WFMZ-TV, it is by no means clear that the Broadcasters' Comments proposed table does this. Second, the goal of replication should not have undue preclusive effects on new or improved DTV service. The existing NTSC table

balances these considerations by incorporating both minimum and maximum power levels. Third, the goal of replication should be subject to some reasonable limitations. By and large, the "mega-power" allotments in the Broadcasters' Comments' proposed table are the consequence of attempting to assure continued coverage by some VHF stations of areas beyond the radio horizon. These extended coverage areas were significant in the early days of television, when the only television stations were located in the largest cities. Viewing patterns in rural areas developed on the basis of sophisticated roof-top antennas aimed at distant stations and the absence of any viewing alternatives. Since the 1950s, however, new stations have been constructed in many smaller communities and rural areas, not to mention cable television systems built with the principal objective of improving the reception of distant broadcast signals. While reliance on extended VHF service may continue to be significant in some rural areas, it is difficult to imagine that, in more developed areas, power levels more modest than those proposed for some stations in the Broadcasters' Comments table would actually result in deprivation of service.

6. Fourth, and at least as important as the preceding concerns, the creation of super-power stations to replicate existing video service areas would have the gratuitous consequence of bestowing an enormous competitive advantage on existing VHF licensees in new lines of business yet to be developed through the utilization of digital television spectrum for other services. This advantage would accrue even for services which bear no relationship to the video programming service the FCC seeks to replicate. A current VHF licensee using a portion of a new DTV channel for delivery of, for example, digital information to desktop computers would have an enormous advantage over a current UHF licensee seeking to utilize a portion of its DTV channel for the same

purpose. Such an advantage would be not be supported by any justification for replicating an existing service.

7. The solution, therefore, lies in the adoption of a reasonable maximum power level for all DTV allotments. Assuming that digital transmission generally requires 1/16th of the power utilized for NTSC transmissions, a reasonable maximum power level for all UHF band DTV allotments would be 1/16th of the current maximum power level of 5,000 kW, or 312.5 kW.

8. As an ancillary matter, the FCC should reconsider its decision, in extending the date for Reply Comments in this proceeding to January 24, 1997 (Second Order Extending Time for Filing Reply Comments, DA 97-23, released January 8, 1997), to not entertain responses to Reply Comments. It is apparent from the various requests for additional time that the Reply Comments of some parties (*e.g.*, Sinclair Broadcast Group and Sullivan Broadcasting Company, AFCCE, duTreil, Lundin and Rackley) will incorporate significant new discussions of technical issues. While there is no doubt that this proceeding should be completed without unnecessary delay, there is also no doubt that the importance of this proceeding requires a thorough ventilation of the issues, including any significant alternatives to the FCC's proposal or the Broadcasters' Comments proposal. Even MSTV

appears to have acknowledged the value of some additional time for broadcasters to "evaluate and respond" to issues raised in reply comments.[2] For that reason, the FCC should allow parties two additional weeks, to and including February 7, 1997, to file supplemental comments addressing technical issues raised in the reply comments.

Respectfully submitted,

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January 24, 1997

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[2] *See* Second Extension Order, ¶ 3.